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**From:**

**Sent:** Tue 10/6/2009 11:57 AM

**To:**

**Cc:**

**Subject:** RE: Joint Committee Expedited Refund Question

Here are my thoughts regarding both of your questions, below. First, I don't see any reason why a T/P would be prohibited from requesting a refund before an audit is opened. Indeed, I think that the fair inference from the IRM Part that you cited is that a T/P may do so. [See](#) IRM Part 4.36.3.7.1(1)(a) (discussing cases with unagreed issues being reported to the JCT notwithstanding that they are CIC T/Ps). Second, as to your "business decision" question, I would not think that a general fear of a computational mistake alone otherwise would prevent the examiner from concluding that a substantial part of claimed refund would be allowed. Besides being a fair reading of the manual, I think that the provision requiring the posting of security would trump this concern. [See](#) IRM Part 4.36.3.7.3(1)(d). Instead, I would imagine that the examiner and manager should consider the substance of the claim (*i.e.*, the existence of FTCs) and then decide whether such claim reasonably would lead to a substantial part of the claimed refund (*i.e.*, is the T/P entitled to the FTCs, may they be applied in the year in question, were sufficient payments posted to the account to sustain the refund, *etc.*).

Feel free to call me directly if you want to discuss this matter further.

Also, please let me know once you have a number for this matter.

Regards,